THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3927 OF 2006

Dated: 02-03-2006

Between

Molabanti Dhanumjaya Rao,

S/o. Valeswara Rao,

R/o. H.No.18-474/1,

Santhapadu Village,

Chinagadili Mandalam,

Visakhapatnam District.

...PETITIONER

AND

The District Collector,

Visakhapatnam,

Visakhapatnam District

and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to direct the respondents not to demolish the petitioner's house No.18-474/1 situated at Plot No.5 covered by Patta No.149 in Sy.No.63/B3 of Santhapalem Village, Chinagadili Mandalam, Visakhapatnam District by declaring the action of the respondents as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of aforementioned premises and after obtaining permission from the Visakhapatnam Municipal Corporation he constructed a house in the said premises without violating any of the conditions of the said permission. While so, the respondent – corporation in order to extend the road i.e. 200 feet wide road leading from Hanumanthawaka to Simhachalam is trying to demolish the house of the petitioner without giving any notice and without paying any compensation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if his lands are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for his structures or the lands and without following due process of law,
are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Section 146 or 147 of the Municipal Corporations Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.
No costs.

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V. ESWARAIAH, J

March 2, 2006

Note: Furnish C.C. of the order by 04.03.2006

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DSK